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2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF WASHINGTON
5

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 vs.

9 RANDALL D. McREYNOLDS,

10 Defendant.
11

)
) No. CR-10-00026-JLQ

) SENTENCING FINDINGS OF
) FACT AND CONCLUSIONS OF
) LAW

12 This matter came regularly on for sentencing commencing on September 30, 2010
13 and concluded on October 1, 2010. The Defendant had pled guilty to two separate felony
14 charges, distribution of heroin on March 12, 2009 and possession of heroin on March 19,
15 2009 with the intent to distribute it. The Government was represented by Matthew F.
16 Duggan, Assistant United States Attorney. The Defendant was present in person and
17 with his attorney, Roger Peven, Federal Defender. Also present was United States
18 Probation Officer Brenda Challinor, the Guideline Specialist for this court.

19 Various objections to the Presentence Report were filed by counsel for the
20 Defendant and ruled upon by the court:

21 Objection No. 1: The Defendant objected to the statement in ¶ 19, page 6
22 concerning items of allegedly stolen property found in the search of the Defendant's
23 residence. Counsel for the Defendant stated in his objection that "all items seized by law
24 enforcement were returned in a subsequent state proceeding." This statement is not
25 accurate. The response by the court's Probation Officer Challinor established that
26 "several items were not returned as they were confirmed to have been stolen in two
27 burglaries. These items included a laptop computer and two cable boxes." The

1 Presentence Report was amended to include these findings.

2 Objection No. 2: ¶ 20, pages 6 & 7. Two locked gun safes were found in the
3 Defendant's residence in which were located handguns, rifles, a shotgun and
4 ammunition. Found in one of the safes was a baggie containing 245 grams of heroin on
5 which the Defendant's fingerprints were found. The Defendant's fingerprints were not
6 found on any of the weapons and the key to the safe containing the firearms was not
7 found in the Defendant's possession. The Presentence Report accurately set forth these
8 facts.

9 Objection No. 3-¶ 22, page 7. The revised Presentence Report accurately reflects
10 that \$8,669 of cash was seized from the Defendant and his residence. \$2500 of that
11 money was retained by the police representing the proceeds of the sale of heroin by the
12 Defendant on March 12, 2009, 6 days prior to the search of his residence. Also retained
13 was \$1,300 of cash found on the Defendant's person at the time of his arrest.

14 Objection No. 4-¶s 25 & 26, page 7. The Defendant asserted that he was entitled
15 to a 3 level reduction in his offense level for acceptance of responsibility pursuant to
16 U.S.S.G. 3E1.1(a) and (e). At the time of entry of his pleas of guilty the Defendant
17 contended that he was trying to get drugs on the street. That statement was false. On
18 September 30, 2010, at sentencing, the Defendant testified under oath that the heroin
19 found in the safe at his residence was not his and that it had been delivered to him in his
20 vehicle, away from his residence, by a person named "Dave" who asked him to hold the
21 heroin for delivery to another person. The court found that testimony to not be credible.
22 At the time of his arrest the Defendant had informed the officers that the heroin had been
23 delivered to him at his residence to hold for another person. The Defendant denied
24 ownership of the heroin. The court found this testimony lacked credibility. The court
25 further found that even though the Defendant had entered pleas of guilty, he had not
26 truthfully admitted the conduct comprising the offense of conviction. As such the
27 Defendant had not "clearly demonstrated acceptance of responsibility for his offenses"

1 cocaine distribution conviction and continuing through 1998 when the Defendant was
2 sentenced to 477 months in prison in Stevens County Superior Court, state of
3 Washington for 7 felonies. That sentence was subsequently reduced to 138 months
4 following appeals. Those 7 felony convictions, including stolen property and firearms
5 charges, resulted in only 3 criminal history points being included in his 6 Criminal
6 History points. A person having 7 Criminal History points is placed in Criminal History
7 Category IV. The Sentencing Guidelines provide that in determining whether a
8 defendant's criminal history points under-represent a defendant's true criminal history,
9 the court must analyze a defendant's entire criminal history in making the determination
10 as to the likelihood that the defendant will commit other crimes. Mr. McReynolds
11 innumerable criminal history charges and convictions convince this court of the
12 likelihood that he would, if not incarcerated for an extensive period of time, likely
13 commit further serious crimes. Many of the criminal charges against Mr. McReynolds
14 were for various reasons, in some instances after conviction and sentencing (see ¶s 111
15 & 113), dismissed. The dismissed charges were not the basis for this court's Criminal
16 History Category determination. At a minimum, the Defendant's prior 7 felony
17 convictions, even though in some instances somewhat related, convinced this court that
18 placing Mr. McReynolds in Criminal History Category III would seriously under-
19 represent his true criminal history and his likelihood to reoffend. For this reason the
20 court found that Mr. McReynolds' true criminal history was more accurately represented
21 by Criminal History Category IV. Even at sentencing, the Defendant stated that he had
22 committed many other offense for which he had not been charged.

23 **GUIDELINE CALCULATION**

24 Based upon an Offense Level of 26 and a Criminal History of Category IV, the
25 Sentencing Guideline range was 92-115 months. Following consideration of the factors
26 set forth in 18 U.S.C. § 3553(a) and the fact that pleas of guilty were timely entered, the
27 court determined that an appropriate sentence on each of the two Counts was a term of

1 92 months to run concurrent with one another, followed by Supervised Release on each
2 Count of 8 years to run concurrent to one another.

3 The Clerk shall enter this Order and furnish copies to counsel.

4 Dated this 5th day of October, 2010.

5 s/ Justin L. Quackenbush
6 JUSTIN L. QUACKENBUSH
7 SENIOR UNITED STATES DISTRICT JUDGE
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